

REMARKS

An early examination on the merits of all claims now pending in the above-identified patent application (i.e., Claims 16-72), and declaration of an interference with the corresponding claims patented in U.S. Patent No. 6,692,354, on February 17, 2004, are respectfully requested in view of the foregoing amendments and the following remarks.

The first Office Action for the instant patent application consisted of a suggestion, pursuant to 35 U.S.C. §135, by the Examiner that Applicant copy Claims 1-26 from U.S. Patent No. 6,692,354, for the purpose of an interference.

The pending application was filed October 17, 2003, and timely copied claims from Tracy et al., U.S. Patent Application Serial No. 10/165,227, which was published on October 17, 2002, as U.S. Patent Application Publication No. 2002/0151342. Because patent application Serial No. 10/165,227 has since issued as U.S. Patent No. 6,692,354, the Examiner has suggested that Applicant now copy the patented claims, which Applicant has done via this Response.

Specifically, Applicant has added new Claims 40-65, which are copied exactly from Claims 1-26, respectively, of U.S. Patent No. 6,692,354. Applicant has also added new Claims 66-72, pursuant to 37 C.F.R. §1.605(a), which Applicant further suggests as appropriate for setting up an inter-

ference with various claims patented by Tracy et al.

Incorporation by Reference: It is Applicant's intent to copy Claims 1-26 of Tracy et al., U.S. Patent No. 6,692,354, issued February 17, 2004, as new Claims 40-65, respectively, into the instant patent application via the present Amendment. While care has been taken to ensure that each of the foregoing claims has been properly and correctly copied, in the event that a substantive, and unintentional, typographical error has been committed in the copying of the foregoing claims, Applicant hereby states that the corresponding claims in Tracy et al. are hereby incorporated by reference into the instant application, to the extent necessary to account for any possible typographical error. *See, In re Goodwin*, 43 USPQ2d 1856 (PTO Comm. 1997).

When originally-filed on October 17, 2003, the present continuation application was preliminarily amended to cancel original Claims 1-15 and to substitute therefor new Claims 16-39, of which Claims 16 and 26 were presented in independent form. Claims 16-39 have been retained in the application without amendment. Of Claims 40-72 which are now been added, Claims 40, 48, 54, 59, 63-67 and 70-72 are presented in independent form.

The originally-remitted filing fee paid on October 17, 2003, covered the pendency of 24 total claims. Because 33 new claims have now been added, the excess claims fee for the

pendency of this additional number of claims is \$297 (small entity.) Further, as amended via the Preliminary Amendment, filed October 17, 2003, the application contained two independent claims (the originally filing fee, therefore, did not include any additional claims fee covering more than three independent claims.) The application has been amended to now present 14 independent claims, thereby necessitating a further additional claims fee of \$473 (small entity) for the pendency of 11 independent claims beyond the three independent claims covered by the originally-paid filing fee. The total additional claims fee of \$770 is therefore being remitted with this Amendment.

Accordingly, an early examination on the merits of all pending claims (i.e., Claims 16-72) of the above-identified patent application, an allowance and an appropriate declaration of an interference with the corresponding claims of U.S.

Patent No. 6,692,354 are respectfully requested and earnestly solicited.

Respectfully submitted,

CHRISTOPHER R. BYRNE

By 
Edwin D. Schindler

Attorney for Applicant
Reg. No. 31,459

Five Hirsch Avenue
P. O. Box 966
Coram, New York 11727-0966

(631)474-5373

June 4, 2004

Enc.: Check for \$770.00 (Additional Claims Fee)

The Commissioner is hereby authorized to charge the Deposit Account of Applicant's Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.